

BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition  
to Revoke Probation Against:

RICHARD ARTHUR CERESA  
776 East Riviera Court  
Woodbridge, California 95258

CPA Certificate No. 15715

Respondent.

Case No. D1-2003-9

OAH No. N2006050799

**PROPOSED DECISION**

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, on July 27, 2006.

Geoffrey S. Allen, Deputy Attorney General, Department of Justice, State of California, represented complainant and petitioner Carol Sigmann, Executive Officer of the California Board of Accountancy, State of California.

Richard Arthur Ceresa (respondent) appeared and represented himself.

A stipulation and evidence were received and the matter submitted on July 27, 2006.

**FACTUAL FINDINGS<sup>1</sup>**

1. Carol Sigmann, Executive Officer of the California Board of Accountancy (Board), Department of Consumer Affairs, State of California, made and filed the Petition to Revoke Probation and Accusation, and Supplemental Petition to Revoke Probation and Accusation, solely in her official capacity.

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<sup>1</sup> The parties stipulated to the facts set forth in Petition to Revoke Probation and Accusation, and the Supplemental Petition to Revoke Probation and Accusation. These facts are set forth in Findings 1 through 6 herein.

2. On October 31, 1970, the Board issued Certified Public Accountancy Certificate Number 15715 to respondent.

3. In a disciplinary action entitled *In the Matter of the Accusation Against Richard A. Ceresa*, Case No. AC-2003-9, the Board issued a Decision, effective June 21, 2003, in which respondent's license was revoked.<sup>2</sup> However, the revocation was stayed and respondent's license was placed on probation for a period of three years, with certain terms and conditions. Among those conditions, respondent was ordered to:

- A. Condition 2: "Respondent shall obey all federal, California, other state and local laws, including those rules relating to the practice of public accountancy in California."
- B. Condition 5: "Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the respondent's compliance with the probation terms and conditions."
- C. Condition 9: "Respondent shall complete eighty hours, including an eight hour ethics course, of professional education courses as specified by the Board or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the Board or its designee, which time frame shall be incorporated as a condition of this probation. This shall be in addition to continuing education requirements for licensing. Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation."

4. On or about May 19, 2003, respondent received \$5,000 as an advance payment to prepare the federal and state estate tax returns for the estate of J.L.'s deceased father, and to prepare J.L.'s 2003 income tax return. For over one year, respondent made numerous representations that the returns were being finalized and that the returns would be sent to J.L. The returns were never prepared nor was the advance payment returned to J.L. Respondent failed to prepare a Form 706 and California Form ET-1 by the extended due date of August 9, 2004, on behalf of client J.L. Respondent did not return the records of and for the estate of J.L.'s deceased father, despite repeated requests from J.L. and J.L.'s attorney. Respondent also did not return J.L.'s personal 2003 income tax returns, despite repeated requests.

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<sup>2</sup> The Decision arose from a Stipulated Settlement and Disciplinary Order. This Decision incorporated by reference the underlying Accusation. That Accusation was not included in this proceeding. Accordingly, I am not apprised of the factual bases set forth in that Accusation and underlying the Board's Decision were not proved.

5. Respondent failed to respond within thirty (30) days to the Board's inquiry letters dated March 8, 2005, and May 10, 2005.

6. Respondent failed to complete 80 hours of professional education courses no later than 100 days prior to the termination of probation.

*Circumstances in Mitigation*

7. Respondent readily acknowledges his culpability. He is contrite and expressed sincere remorse for his failure to properly attend to J.L. He further acknowledged that he did not timely respond to the Board's repeated inquiry letters.

8. Respondent has suffered from a cervical condition that necessitated spinal surgical intervention. He relates that during the period of his probation, he has suffered pain that has affected both his physical and mental wellbeing. His condition has resulted in a failure to fully attend to his responsibilities. Licensed for nearly 33 years, he acknowledges the impact his medical condition has had on his ability to fully comply with his professional responsibilities. Respondent's condition has been partially resolved by surgery, but continues to require palliation.

9. Respondent is semi-retired and maintains approximately 100 tax preparation clients. He seeks to maintain his license so that he can attend to his limited practice responsibilities.

10. Respondent fully satisfied his continuing education requirements, since the inception of the instant proceeding. He claims that a meeting prior to the termination of his probation was cancelled by the Board. The result of that cancellation resulted in his lack of full awareness of his pending continuing education obligation.

*Circumstances in Aggravation*

11. Respondent failed to properly discharge his professional obligations, despite repeated inquiries from J.L. or his attorney.

12. Notwithstanding his medical condition, respondent failed to notify J.L. or his attorney of his incapacity and concomitant inability to properly attend to his client's matters.

13. Respondent's testimony concerning his mitigation, rehabilitation and extenuation was largely self-serving. He presented no witnesses or letters attesting to his present capacity to engage in the practice of accountancy, however limited by his medical condition.

**COSTS FINDINGS**

14. The Board has incurred reasonable enforcement costs in this matter in the sum of \$12,685.40.

## LEGAL CONCLUSIONS

1. Cause exists to revoke respondent's Board certificate for gross negligence pursuant to Business and Professions Code section 5100, subdivision (c), as set forth in Findings 2 and 4.
2. Cause exists to revoke respondent's Board certificate for breach of fiduciary duty pursuant to Business and Professions Code section 5100, subdivision (i), as set forth in Findings 2 and 4.
3. Cause exists to revoke respondent's Board certificate for misappropriation of property pursuant to Business and Professions Code section 5100, subdivision (k), as set forth in Findings 2 and 4.
4. Cause exists to revoke respondent's Board certificate failure to return client records pursuant to Business and Professions Code section 5037, in conjunction with California Code of Regulations, title 16, section 68, as set forth in Findings 2 and 4.
5. Cause exists to revoke respondent's Board certificate for failure to respond to Board inquiry pursuant to California Code of Regulations, title 16, section 52, as set forth in Findings 2, 4 and 5.
6. Cause exists to revoke the probation of respondent set forth in *In the Matter of the Accusation Against Richard A. Ceresa*, Case No. AC-2003-9, for failure to obey all laws as set forth in Legal Conclusions 1 through 5, and each of them, and Findings 2 through 5.
7. Cause exists to revoke the probation of respondent set forth in *In the Matter of the Accusation Against Richard A. Ceresa*, Case No. AC-2003-9, for failure to cooperate with Board representatives, as set forth in Legal Conclusion 5, and Findings 2 through 5.
8. Cause exists to revoke the probation of respondent set forth in *In the Matter of the Accusation Against Richard A. Ceresa*, Case No. AC-2003-9, for failure to timely complete his continuing education requirements as set forth in Findings 2, 3 and 6.
9. *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, sets forth the factors to be considered in determining the reasonableness of costs pursuant to statutory provisions like Business and Professions Code section 5107. The factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay and whether the scope of the investigation was appropriate to the alleged misconduct.

Respondent was unsuccessful in getting any allegations dismissed. There was no evidence presented relating to respondent's financial ability to pay the costs sought. The amount sought appears to reflect that the scope of investigation was appropriate to the misconduct. Accordingly, cause exists to order respondent to reimburse the Board its costs of

enforcement pursuant to Business and Professions Code section 5107 and as set forth in Legal Conclusions 1 through 8, and Finding 14.

3. The objective of a disciplinary proceeding is to protect the public, the certificated profession, maintain integrity, high standards, and preserve public confidence in Board certification. It is not to protect the errant.<sup>3</sup> Indeed, the statutes relating to Board certification are designed to protect the public from any potential risk of harm.<sup>4</sup>

Respondent consented to a stipulated discipline that set forth the terms and conditions of his probation. Only a month prior to the effective date of his discipline, he accepted the obligation to professionally employ his particular knowledge, training, and expertise in assisting J.L. Within months of the commencement of his probation, he failed to discharge his obligations to J.L. Throughout a major period of this probation, respondent repeatedly neglected J.L. and the Board.

Respondent has been an evidently talented certified public accountant who has enjoyed his profession. However, respondent is also impaired by an evident condition that requires ongoing medical attention.

The Board has limited resources. The purpose of probation is not punitive but to assist, guide, monitor, evaluate and assess a licentiate's progress, rehabilitation, and affect on public protection.

Accordingly, giving due consideration to the facts and circumstances underlying the Accusation (Legal Conclusions 1 through 5, and each of them) and Petition to Revoke Probation (Legal Conclusions 6 through 8, and each of them) and the circumstances in mitigation (Findings 7 through 10) and aggravation (Findings 11 through 13), the public interest will be harmed by the continued issuance of a certified public accountant certificate to respondent.

#### ORDER

1. Certified Public Accountancy Certificate Number 15715 issued to respondent Richard Arthur Ceresa by the California Board of Accountancy is revoked pursuant to Legal Conclusions 1 through 5, and each of them, and Legal Conclusion 10.

2. The stay ordered in *In the Matter of the Accusation Against Richard A. Ceresa*, Case No. AC-2003-9, is vacated pursuant to Legal Conclusions 6 through 8, and each of them, and Legal Conclusion 10; and the previously ordered revocation of Certified Public Accountancy Certificate Number 15715 issued to respondent Richard Arthur Ceresa by the California Board of Accountancy is reinstated.

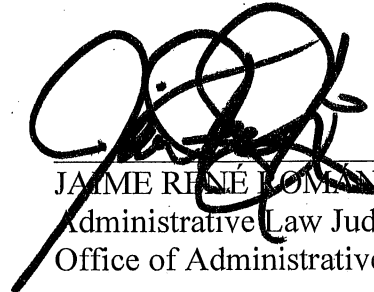
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<sup>3</sup> *Marks v. Watson* (1952) 112 Cal.App.2d 196; *Camacho v. Youde* (1975) 95 Cal.App.3d 161, 165; *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 816.

<sup>4</sup> *Lopez v. McMahon* (1988) 205 Cal.App.3d 1510, 1516; *Arneson v. Fox* (1980) 28 Cal.3d 440.

3. Respondent Richard Arthur Ceresa, Certified Public Accountancy Certificate Number 15715, shall pay to the Board the sum of \$12,685.40 for its costs of investigation and prosecution pursuant to Legal Conclusion 9.

Dated: August 2, 2006



JAI ME RENÉ ROMAN  
Administrative Law Judge  
Office of Administrative Hearings

BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition  
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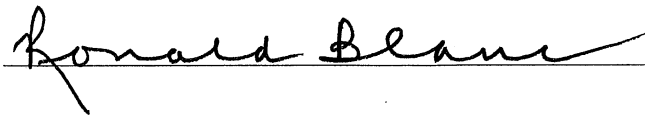
OAH No. N2006050799

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby  
adopted by the BOARD OF ACCOUNTANCY as its Decision in the above-entitled matter.

This Decision shall become effective on October 20, 2006.

IT IS SO ORDERED September 20, 2006.

  
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Attorneys for Complainant

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation/Petition to  
Revoke Probation Against:

RICHARD ARTHUR CERESA

776 East Riviera Court  
Woodbridge, California 95258  
Certificate No. 15715

Respondent.

Case No. D1-2003-9

OAH No. 2006050799

**SUPPLEMENTAL PETITION TO  
REVOKE PROBATION AND  
ACCUSATION**

1. Carol Sigmann (hereinafter "Complainant") hereby re-alleges and incorporates by this reference paragraphs 1 - 25 of the Petition to Revoke Probation and Accusation previously filed in this matter as though fully set forth herein. Complainant hereby supplements the Petition to Revoke Probation and Accusation as follows:

JURISDICTION

2. The instant Supplemental Petition to Revoke Probation and Accusation is brought before the California Board of Accountancy (hereinafter "Board"), Department of Consumer Affairs, under the authority of the following laws.

3. Government Code section 11507 states:

At any time before the matter is submitted for decision the agency may file or permit the filing of an amended or supplemental accusation. All parties shall be notified thereof. If the amended or supplemental accusation presents new charges the agency shall afford respondent a reasonable opportunity to prepare his defense



1 thereto, but he shall not be entitled to file a further pleading unless the agency in  
2 its discretion so orders. Any new charges shall be deemed controverted, and any  
3 objections to the amended or supplemental accusation may be made orally and  
4 shall be noted in the record.

5 ADDITIONAL CAUSE TO REVOKE PROBATION

6 (Failure to Complete Professional Education Requirement of Probation)

7 4. At all times after the effective date of Respondent's probation, Condition 9  
8 of Respondent's probation stated:

9 Respondent shall complete eighty hours, including an eight hours ethics  
10 course, of professional education courses as specified by the Board or its  
11 designee at the time Respondent's first probation appearance. The  
12 professional education courses shall be completed within a period of time  
13 designated and specified in writing by the Board or its designee, which  
14 time frame shall be incorporated as a condition of this probation. This  
15 shall be in addition to continuing education requirements for relicensing.

16 Failure to satisfactorily complete the required courses as scheduled or  
17 failure to complete same no later than 100 days prior to the termination of  
18 probation shall constitute a violation of probation.

19 5. Respondent's probation is subject to revocation because he failed to  
20 comply with Probation Condition 9, referenced above. The facts and circumstances regarding  
21 this violation are that Respondent failed to complete eighty hours of professional education  
22 courses no later than 100 days prior to the termination of probation.

23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
25 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

26 1. Lifting the stay of revocation that was granted by the California Board of  
27 Accountancy in Case No. AC-2003-9 and imposing the disciplinary order revoking Certificate  
28 No. 15715 issued to Richard Arthur Ceresa;

29 2. Revoking or suspending Certificate No. 15715, issued to Richard Arthur  
30 Ceresa;

31 3. Ordering Richard Arthur Ceresa to pay the Board of Accountancy the costs  
32 of investigating and enforcing this case according to proof at the hearing; and,

33 4. Taking such other and further action as deemed necessary and proper.

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DATED: July 25, 2006 Carol Sigmann  
CAROL SIGMANN  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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ORIGINAL

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In the Matter of the Accusation/Petition to  
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Case No. D1-2003-9

RICHARD ARTHUR CERESA  
776 East Riviera Court  
Woodbridge, California 95258  
Certificate No. 15715

**PETITION TO REVOKE  
PROBATION AND ACCUSATION**

Respondent.

Complainant alleges:

PARTIES

1. Carol Sigmann (hereinafter "Complainant") brings this Petition to Revoke Probation and Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

2. On or about October 31, 1970, the California Board of Accountancy issued Certified Public Accountant Certificate Number 15715 (hereinafter "License") to Richard Arthur Ceresa (hereinafter "Respondent").

3. In a disciplinary action entitled "In the Matter of the Accusation Against Richard A. Ceresa" Case No. AC-2003-9, the California Board of Accountancy, issued a decision, effective June 21, 2003, in which Respondent's license was revoked. However, the

1 revocation was stayed and Respondent's License was placed on probation for a period of three (3)  
2 years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is  
3 incorporated by reference.

#### 4 JURISDICTION

5 4. The instant Petition to Revoke Probation and Accusation is brought before  
6 the California Board of Accountancy (hereinafter "Board"), Department of Consumer Affairs,  
7 under the authority of the following laws. All section references are to the Business and  
8 Professions Code unless otherwise indicated.

9 5. Section 5100 states:

10 After notice and hearing the board may revoke, suspend, or refuse  
11 to renew any permit or certificate granted under Article 4 (commencing with  
12 Section 5070) and Article 5 (commencing with Section 5080), or may censure the  
holder of that permit or certificate for unprofessional conduct that includes, but is  
not limited to, one or any combination of the following causes:

13 .....

14 (c) Dishonesty, fraud, gross negligence, or repeated negligent acts  
15 committed in the same or different engagements, for the same or different clients,  
or any combination of engagements or clients, each resulting in a violation of  
16 applicable professional standards that indicate a lack of competency in the  
practice of public accountancy or in the performance of the bookkeeping  
17 operations described in Section 5052.

18 .....

19 (i) Fiscal dishonesty or breach of fiduciary responsibility of any  
kind.

20 .....

21 (k) Embezzlement, theft, misappropriation of funds or property, or  
22 obtaining money, property, or other valuable consideration by fraudulent means or  
false pretenses.

23 .....

24 6. California Code of Regulations, title 16, section 52, subdivision (a) states,  
25 "[a] licensee shall respond to any inquiry by the Board or its appointed representatives within  
26 thirty days. The response shall include making available all files, working papers and other  
27 documents requested."

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1                   7.       California Code of Regulations, title 16, section 58, provides that licensees  
2 engaged in the practice of public accountancy shall comply with all applicable professional  
3 standards, including but not limited to generally accepted accounting principles and generally  
4 accepted auditing standards.

5                   8.       California Code of Regulations, title 16, section 68, states:

6                   A licensee, after demand by or on behalf of a client, for books, records or  
7 other data, whether in written or machine sensible form, that are the client's  
8 records shall not retain such records. Unpaid fees do not constitute justification  
9 for retention of client records.

10                  Although, in general the accountant's working papers are the property of  
11 the license, if such working papers include records which would ordinarily  
12 constitute part of the client's books and records and are not otherwise available to  
13 the client, then the information on those working papers must be treated the same  
14 as if it were part of the client's books and records.

15                  9.       Section 5037 states:

16                  (a) All statements, records, schedules, working papers and  
17 memoranda made by a licensee or a partner, shareholder, officer, director, or  
18 employee of a licensee, incident to, or in the course of, rendering services to a  
19 client in the practice of public accountancy, except the reports submitted by the  
20 licensee to the client and except for records which are part of the client's records,  
21 shall be and remain the property of the licensee in the absence of an express  
22 agreement between the licensee and the client to the contrary. No such statement,  
23 record, schedule, working paper, or memoranda shall be sold, transferred, or  
24 bequeathed, without the consent of the client or his or her personal representative  
25 or assignee, to anyone other than one or more surviving partners or stockholders  
26 or new partners or stockholders of the licensee, or any combined or merged firm  
27 or successor in interest to the licensee.

28                  (b) A licensee shall furnish to his or her client or former client,  
upon request and reasonable notice:

(1) A copy of the licensee's working papers, to the extent that those  
working papers include records that would ordinarily constitute part of the client's  
records and are not otherwise available to the client.

(2) Any accounting or other records belonging to, or obtained from  
or on behalf of, the client which the licensee removed from the client's premises  
or received for the client's account. The licensee may make and retain copies of  
documents of the client when they form the basis for work done by him or her.

10.       Section 5107 states:

(a) The executive officer of the board may request the  
administrative law judge, as part of the proposed decision in a disciplinary  
proceeding, to direct any holder of a permit or certificate found to have committed  
a violation or violations of this chapter to pay to the board all reasonable costs of  
investigation and prosecution of the case, including, but not limited to, attorneys'  
fees. The board shall not recover costs incurred at the administrative hearing.

(b) A certified copy of the actual costs, or a good faith estimate of  
costs where actual costs are not available, signed by the executive officer, shall be  
prima facie evidence of reasonable costs of investigation and prosecution of the

1 case.

2 (c) The administrative law judge shall make a proposed finding of  
3 the amount of reasonable costs of investigation and prosecution of the case when  
4 requested to do so by the executive officer pursuant to subdivision (a). Costs are  
5 payable 120 days after the board's decision is final, unless otherwise provided for  
6 by the administrative law judge or if the time for payment is extended by the  
7 board.

8 (d) The finding of the administrative law judge with regard to cost  
9 shall not be reviewable by the board to increase the cost award. The board may  
10 reduce or eliminate the cost award, or remand to the administrative law judge  
11 where the proposed decision fails to make a finding on costs requested by the  
12 executive officer pursuant to subdivision (a).

13 (e) The administrative law judge may make a further finding that  
14 the amount of reasonable costs awarded shall be reduced or eliminated upon a  
15 finding that respondent has demonstrated that he or she cannot pay all or a portion  
16 of the costs or that payment of the costs would cause an unreasonable financial  
17 hardship which cannot be remedied through a payment plan.

18 (f) When an administrative law judge makes a finding that costs be  
19 waived or reduced, he or she shall set forth the factual basis for his or her finding  
20 in the proposed decision.

21 (g) Where an order for recovery of costs is made and timely  
22 payment is not made as directed by the board's decision, the board may enforce  
23 the order for payment in any appropriate court. This right of enforcement shall be  
24 in addition to any other rights the board may have as to any holder of a permit or  
25 certificate directed to pay costs.

26 (h) In a judicial action for the recovery of costs, proof of the  
27 board's decision shall be conclusive proof of the validity of the order of payment  
28 and the terms of payment.

(i) All costs recovered under this section shall be deposited in the  
Accountancy Fund.

(j) (1) Except as provided in paragraph (2), the board shall not  
renew or reinstate the permit or certificate of a holder who has failed to pay all of  
the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion,  
conditionally renew or reinstate for a maximum of one year the permit or  
certificate of a holder who demonstrates financial hardship and who enters into a  
formal agreement with the board to reimburse the board within that one-year  
period for those unpaid costs.

(k) Nothing in this section shall preclude the board from seeking  
recovery of costs in an order or decision made pursuant to an agreement entered  
into between the board and the holder of a permit or certificate.

(l) (1) Costs may not be recovered under this section as a result of a  
citation issued pursuant to Section 125.9 and its implementing language if the  
licensee complies with the citation.

(2) The Legislature hereby finds and declares that this subdivision  
is declaratory of existing law.

#### FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent is subject to disciplinary action under Code section 5100,  
subd. (c) in that Respondent was grossly negligent. The circumstances are as follows:

12. Respondent failed to prepare a Form 706 and California Form ET-1 by the extended due date of August 9, 2004, on behalf of client J.L. In addition Respondent failed to prepare the 2003 income tax return of client, J.L.

#### SECOND CAUSE FOR DISCIPLINE

##### (Breach of Fiduciary Duty)

13. Respondent is subject to disciplinary action under Code section 5100, subd. (i) in that Respondent breached his fiduciary duty to a client. The circumstances are as follows:

14. On or about May 19, 2003, Respondent received \$5,000.00 as an advance payment to prepare the federal and state estate tax returns for the estate of J.L.'s deceased father, and to prepare J.L.'s 2003 income tax return. For over one year, Respondent made numerous representations that the returns were being finalized and that the returns would be sent to J.L. The returns were never provided nor was the advance payment returned to J.L.

#### THIRD CAUSE FOR DISCIPLINE

##### (Misappropriation of Property)

15. Respondent is subject to disciplinary action under section Code section 5100, subd. (k) in that Respondent misappropriated the property of a client. The circumstances are as set forth above in Paragraph #14.

#### FOURTH CAUSE FOR DISCIPLINE

##### (Ownership of Papers)

16. Respondent is subject to disciplinary action under Code section 5037 in that Respondent did not return client records despite repeated requests from the client to do so. The circumstances are as follows:

17. Respondent did not return the records of for the estate of J.L.'s deceased father despite repeated requests from J.L. and J.L.'s attorney. Respondent also did not return J.L.'s personal 2003 income tax returns despite repeated requests.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Retention of Records)

3 18. Respondent is subject to disciplinary action under California Code of  
4 Regulations, title 16, section 68 in that failed to return client records as set forth above in  
5 Paragraph #17.

6 SIXTH CAUSE FOR DISCIPLINE

7 (Failure to Respond to Board Inquiry)

8 19. Respondent is subject to disciplinary action under California Code of  
9 Regulations, title 16, section 52 in that Respondent failed to respond to inquiries from the Board.  
10 The circumstances are as follows:

11 20. Respondent failed to respond within thirty (30) days to the Board's inquiry  
12 letters dated March 8, 2005, and May 10, 2005.

13 FIRST CAUSE TO REVOKE PROBATION

14 (Failure to Obey Rules)

15 21. At all times after the effective date of Respondent's probation, Condition 2  
16 of Respondent's probation stated, "Respondent shall obey all federal, California, other state and  
17 local laws, including those rules relating to the practice of public accountancy in California."

18 22. Respondent's probation is subject to revocation because he failed to  
19 comply with Probation Condition 2, referenced above. The facts and circumstances regarding  
20 this violation are set forth above in Paragraphs # 11 through #20.

21 SECOND CAUSE TO REVOKE PROBATION

22 (Failure to Cooperate with Board regarding Probation)

23 23. At all times after the effective date of Respondent's probation, Condition 5  
24 of Respondent's probation stated:

25 Respondent shall fully comply with the terms and conditions of the  
26 probation imposed by the Board and shall cooperate fully with  
27 representatives of the Board of Accountancy in its monitoring and  
28 investigation of the Respondent's compliance with the probation terms and  
conditions.

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24. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 5, referenced above. The facts and circumstances regarding this violation are as set forth above in Paragraphs # 19 and #20.

#### DISCIPLINE CONSIDERATIONS

25. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about June 21, 2003, in a prior disciplinary action entitled In the Matter of the Accusation Against Richard A. Ceresa before the California Board of Accountancy, in Case No. AC-2003-9, Respondent's license was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

#### PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking the probation that was granted by the California Board of Accountancy in Case No. AC-2003-9 and imposing the disciplinary order that was stayed thereby revoking Certificate No. 15715 issued to Richard Arthur Ceresa;
2. Revoking or suspending Certificate No. 15715, issued to Richard Arthur Ceresa;
3. Ordering Richard Arthur Ceresa to pay the Board of Accountancy the costs of investigating and enforcing this case according to proof at the hearing; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: March 20, 2006

  
CAROL SIGMANN  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

**EXHIBIT A**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 PAUL V. BISHOP, State Bar No. 50133  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 324-4618  
Facsimile: (916) 327-8643

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2003-9

11 Richard A. Ceresa  
776 E. Rivera Court  
12 Woodbridge, CA 95258

OAH No.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

13 Certificate No. CPA 15715

14 Respondent.

15  
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
17 above-entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Carol Sigmann (Complainant) is the Executive Officer of the California  
20 Board of Accountancy. She brought this action solely in her official capacity and is represented  
21 in this matter by Bill Lockyer, Attorney General of the State of California, by Paul V. Bishop,  
22 Deputy Attorney General.

23 2. Richard A. Ceresa (Respondent) is representing himself in this proceeding  
24 and has chosen not to exercise his right to be represented by counsel.

25 3. On or about October 31, 1970, the California Board of Accountancy issued  
26 Certificate No. CPA 15715 to Richard A. Ceresa (Respondent). The Certificate expired on May  
27 1, 2001, and has not been renewed.

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JURISDICTION

4. Accusation No. AC-2003-9 was filed before the California Board of Accountancy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 26, 2002. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2003-9 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. AC-2003-9. Respondent has also carefully read and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and, all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2003-9.

9. Respondent agrees that his Certificate is subject to discipline and he agrees to be bound by the California Board of Accountancy (Board) 's imposition of discipline as set forth in the Disciplinary Order below.

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- 1                   2.     **Obey All Laws.** Respondent shall obey all federal, California, other  
2 state and local laws, including those rules relating to the practice of public accountancy in  
3 California.
- 4                   3.     **Submit Written Reports.** Respondent shall submit, within ten (10) days  
5 of completion of the quarter, written reports to the Board on a form obtained from the Board.  
6 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,  
7 and verification of actions as are required. These declarations shall contain statements relative to  
8 Respondent's compliance with all the terms and conditions of probation. Respondent shall  
9 immediately execute all release of information forms as may be required by the Board or its  
10 representatives.
- 11                  4.     **Personal Appearances.** Respondent shall, during the period of probation,  
12 appear in person at interviews/meetings as directed by the Board or its designated  
13 representatives, provided such notification is accomplished in a timely manner.
- 14                  5.     **Comply With Probation.** Respondent shall fully comply with the terms  
15 and conditions of the probation imposed by the Board and shall cooperate fully with  
16 representatives of the Board of Accountancy in its monitoring and investigation of the  
17 Respondent's compliance with probation terms and conditions.
- 18                  6.     **Practice Investigation.** Respondent shall be subject to, and shall permit,  
19 practice investigation of the Respondent's professional practice. Such a practice investigation  
20 shall be conducted by representatives of the Board, provided notification of such review is  
21 accomplished in a timely manner.
- 22                  7.     **Comply With Citations.** Respondent shall comply with all final orders  
23 resulting from citations issued by the Board of Accountancy.
- 24                  8.     **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
25 Respondent should leave California to reside or practice outside this state, Respondent must  
26 notify the Board in writing of the dates of departure and return. Periods of non-California  
27 residency or practice outside the state shall not apply to reduction of the probationary period, or  
28 of any suspension. No obligation imposed herein, including requirements to file written reports,

1 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise  
2 affected by such periods of out-of-state residency or practice except at the written direction of the  
3 Board.

4                   9.       **Continuing Education Courses.** Respondent shall complete eighty  
5 hours, including an eight-hour ethics course, of professional education courses as specified by the  
6 Board or its designee at the time of Respondent's first probation appearance. The professional  
7 education courses shall be completed within a period of time designated and specified in writing  
8 by the Board or its designee, which time frame shall be incorporated as a condition of this  
9 probation. This shall be in addition to continuing education requirements for relicensing.

10                   Failure to satisfactorily complete the required courses as scheduled or failure to  
11 complete same no later than 100 days prior to the termination of probation shall constitute a  
12 violation of probation.

13                   10.       **Ethics Course/Examination.** Respondent shall take and pass with a score  
14 of 90 percent or better a Board approved ethics examination within six (6) months, or prior to the  
15 end of the period of suspension, whichever occurs first.

16                   If respondent fails to pass said examination within the time period provided or  
17 within two attempts, respondent shall so notify the Board and shall cease practice until  
18 respondent takes and successfully passes said exam, has submitted proof of same to the Board,  
19 and has been notified by the Board that he may resume practice. Failure to pass the required  
20 examination no later than 100 days prior to the termination of probation shall constitute a  
21 violation of probation.

22                   Notwithstanding any other provision of this probation, failure to take and pass this  
23 examination within five years of the effective date of this order constitutes a separate cause for  
24 discipline of respondent's license.

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11. **Active License Status.** Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

12. **Cost Reimbursement.** Respondent shall reimburse the Board \$2,968.70 for its investigation and prosecution costs. The payment shall be made within six months of the date the Board's decision is final.

13. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

14. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

## ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: 3/12/03

Richard A. Ceresa  
Richard A. Ceresa  
Respondent

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DATED:

BILL LOCKYER, Attorney General  
of the State of California

Attorneys for Complainant

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Richard A. Ceresa  
776 E. Rivera Court  
Woodbridge, CA 95258

Certificate No. CPA 15715

Respondent.

Case No. AC-2003-9

OAH No.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 21, 2003.

It is so ORDERED May 22, 2003.

  
\_\_\_\_\_  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

**Exhibit A**

**Accusation No. AC-2003-9**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 PAUL V. BISHOP, State Bar No. 50133  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 324-4618  
Facsimile: (916) 327-8643  
6  
7 Attorneys for Complainant

8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2003-9

12 RICHARD A. CERESA  
776 E. Riviera Court  
13 Woodbridge, CA 95258

**A C C U S A T I O N**

14 Certificate No. CPA 15715

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Carol Sigmann (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the California Board of Accountancy, Department of  
21 Consumer Affairs.

22 2. On or about October 31, 1970, the California Board of Accountancy issued  
23 Certificate Number CPA 15715 to RICHARD A. CERESA (Respondent). The Certificate  
24 expired on May 1, 2001, and has not been renewed.

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1 (g) Suspension or revocation of the right to practice before any governmental  
2 body or agency.

3 (h) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

4 (i) Knowing preparation, publication or dissemination of false, fraudulent, or  
5 materially misleading financial statements, reports, or information.

6 (j) Embezzlement, theft, misappropriation of funds or property, or obtaining  
7 money, property, or other valuable consideration by fraudulent means or false pretenses.

8 5. Section 5037 of the Code states:

9 (a) All statements, records, schedules, working papers and memoranda made by a  
10 licensee or a partner, shareholder, officer, director, or employee of a licensee, incident to,  
11 or in the course of, rendering services to a client in the practice of public accountancy,  
12 except the reports submitted by the licensee to the client and except for records which are  
13 part of the client's records, shall be and remain the property of the licensee in the absence  
14 of an express agreement between the licensee and the client to the contrary. No such  
15 statement, record, schedule, working paper, or memoranda shall be sold, transferred, or  
16 bequeathed, without the consent of the client or his or her personal representative or  
17 assignee, to anyone other than one or more surviving partners or stockholders or new  
18 partners or stockholders of the licensee, or any combined or merged firm or successor in  
19 interest to the licensee.

20 (b) A licensee shall furnish to his or her client or former client, upon request and  
21 reasonable notice:

22 (1) A copy of the licensee's working papers, to the extent that those working  
23 papers include records that would ordinarily constitute part of the client's records and are  
24 not otherwise available to the client.

25 (2) Any accounting or other records belonging to, or obtained from or on behalf  
26 of, the client which the licensee removed from the client's premises or received for the  
27 client's account. The licensee may make and retain copies of documents of the client  
28 when they form the basis for work done by him or her.

1                   6.       Section 5050 of the Code states:

2                   No person shall engage in the practice of public accountancy in this State unless  
3                   such person is the holder of a valid permit to practice public accountancy issued by the  
4                   board; provided, however, that nothing in Chapter 1 (commencing with § 5000) shall  
5                   prohibit a certified public accountant or a public accountant of another state, or any  
6                   accountant of a foreign country lawfully practicing therein, from temporarily practicing in  
7                   this State on professional business incident to his regular practice in another state or  
8                   country.

9                   7.       Section 5051 of the Code states, in pertinent part, that a person is deemed  
10                  to be engaging in the practice of public accountancy if he or she holds himself or herself out to  
11                  the public in any manner as one skilled in the knowledge, science, and practice of accounting,  
12                  and as qualified and ready to render professional service therein as a public accountant for  
13                  compensation (subd. (a)) and maintains an office for the transaction of business as a public  
14                  accountant (subd. (b)).

15                  8.       Title 16, California Code of Regulations, section 58, states that licensees  
16                  engaged in the practice of public accountancy shall comply with all applicable professional  
17                  standards, including, but not limited to, generally accepted accounting principles and generally  
18                  accepted auditing standards.

19                  9.       Code section 5107 provides, in pertinent part, that the Executive Officer  
20                  may request the administrative law judge to direct any holder of a permit or certificate found  
21                  guilty of unprofessional conduct involving a felony conviction in violation of subdivision (c) and  
22                  (h) of section 5100 to pay all reasonable costs of the investigation and enforcement of the case,  
23                  including, but not limited to, attorney fees.

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1 FIRST CAUSE FOR DISCIPLINE

2 (GROSS NEGLIGENCE)

3 10. Respondent is subject to disciplinary action under section 5100(c) in that  
4 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
5 Revenue Service (IRS) for the fiscal year ending June 30, 1996. The circumstances are as  
6 follows:

7 11. In or about 1996, Respondent was employed by PLC to prepare its Income  
8 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

9 SECOND CAUSE FOR DISCIPLINE

10 (BREACH OF FIDUCIARY DUTY)

11 12. Respondent is subject to disciplinary action under section 5100(h) in that  
12 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
13 Revenue Service (IRS) for the fiscal year ending June 30, 1996. The circumstances are as  
14 follows:

15 13. In or about 1996, Respondent was employed by PLC to prepare its Income  
16 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

17 THIRD CAUSE FOR DISCIPLINE

18 (GROSS NEGLIGENCE)

19 14. Respondent is subject to disciplinary action under section 5100(c) in that  
20 he failed to prepare Income Tax Returns for his client, PLC, with the Franchise Tax Board (FTB)  
21 for the fiscal year ending June 30, 1996. The circumstances are as follows:

22 15. In or about 1996, Respondent was employed by PLC to prepare its Income  
23 Tax Return with the FTB but he failed to do so, to the detriment of PLC.

24 FOURTH CAUSE FOR DISCIPLINE

25 (BREACH OF FIDUCIARY DUTY)

26 16. Respondent is subject to disciplinary action under section 5100(h) in that  
27 he failed to prepare Income Tax Returns for his client, PLC, with FTB for the fiscal year ending  
28 June 30, 1996. The circumstances are as follows:



1           17.     In or about 1996, Respondent was employed by PLC to prepare its Income  
2 Tax Return with the FTB, but he failed to do so, to the detriment of PLC.

3                               FIFTH CAUSE FOR DISCIPLINE

4                               (GROSS NEGLIGENCE)

5           18.     Respondent is subject to disciplinary action under section 5100(c) in that  
6 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
7 Revenue Service (IRS) for the fiscal year ending June 30, 1997. The circumstances are as  
8 follows:

9           19.     In or about 1997, Respondent was employed by PLC to prepare its Income  
10 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

11                              SIXTH CAUSE FOR DISCIPLINE

12                              (BREACH OF FIDUCIARY DUTY)

13           20.     Respondent is subject to disciplinary action under section 5100(h) in that  
14 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
15 Revenue Service (IRS) for the fiscal year ending June 30, 1997. The circumstances are as  
16 follows:

17           21.     In or about 1997, Respondent was employed by PLC to prepare its Income  
18 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

19                              SEVENTH CAUSE FOR DISCIPLINE

20                              (GROSS NEGLIGENCE)

21           22.     Respondent is subject to disciplinary action under section 5100(c) in that  
22 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Franchise Tax  
23 Board (FTB) for the fiscal year ending June 30, 1997. The circumstances are as follows:

24           23.     In or about 1997, Respondent was employed by PLC to prepare its Income  
25 Tax Return with the FTB but he failed to do so, to the detriment of PLC.

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (BREACH OF FIDUCIARY DUTY)

3 24. Respondent is subject to disciplinary action under section 5100(h) in that  
4 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with FTB for the fiscal  
5 year ending June 30, 1997. The circumstances are as follows:

6 25. In or about 1997, Respondent was employed by PLC to prepare its Income  
7 Tax Return with the FTB, but he failed to do so, to the detriment of PLC.

8 NINTH CAUSE FOR DISCIPLINE

9 (GROSS NEGLIGENCE)

10 26. Respondent is subject to disciplinary action under section 5100(c) in that  
11 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
12 Revenue Service (IRS) for the fiscal year ending June 30, 1998. The circumstances are as  
13 follows:

14 27. In or about 1998, Respondent was employed by PLC to prepare its Income  
15 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

16 TENTH CAUSE FOR DISCIPLINE

17 (BREACH OF FIDUCIARY DUTY)

18 28. Respondent is subject to disciplinary action under section 5100(h) in that  
19 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
20 Revenue Service (IRS) for the fiscal year ending June 30, 1998. The circumstances are as  
21 follows:

22 29. In or about 1998, Respondent was employed by PLC to prepare its Income  
23 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

24 ELEVENTH CAUSE FOR DISCIPLINE

25 (GROSS NEGLIGENCE)

26 30. Respondent is subject to disciplinary action under section 5100(c) in that  
27 he failed to prepare Income Tax Returns for his client, PLC, Inc., (PLC), with the Franchise Tax  
28 Board (FTB) for the fiscal year ending June 30, 1998. The circumstances are as follows:

1                   31.     In or about 1998 Respondent was employed by PLC to prepare its Income  
2 Tax Return with the FTB but he failed to do so, to the detriment of PLC.

3                                   TWELFTH CAUSE FOR DISCIPLINE

4                                   (BREACH OF FIDUCIARY DUTY)

5                   32.     Respondent is subject to disciplinary action under section 5100(h) in that  
6 he failed to prepare Income Tax Returns for his client, PLC, with FTB for the fiscal year ending  
7 June 30, 1998. The circumstances are as follows:

8                   33.     In or about 1998, Respondent was employed by PLC to prepare its Income  
9 Tax Return with the FTB, but he failed to do so, to the detriment of PLC.

10                                  THIRTEENTH CAUSE FOR DISCIPLINE

11                                  (GROSS NEGLIGENCE)

12                   34.     Respondent is subject to disciplinary action under section 5100(c) in that  
13 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
14 Revenue Service (IRS) for the fiscal year ending June 30, 1999. The circumstances are as  
15 follows:

16                   35.     In or about 1999, Respondent was employed by PLC to prepare its Income  
17 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

18                                  FOURTEENTH CAUSE FOR DISCIPLINE

19                                  (BREACH OF FIDUCIARY DUTY)

20                   36.     Respondent is subject to disciplinary action under section 5100(h) in that  
21 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
22 Revenue Service (IRS) for the fiscal year ending June 30, 1999. The circumstances are as  
23 follows:

24                   37.     In or about 1999, Respondent was employed by PLC to prepare its Income  
25 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

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1 FIFTEENTH CAUSE FOR DISCIPLINE

2 (GROSS NEGLIGENCE)

3 38. Respondent is subject to disciplinary action under section 5100(c) in that  
4 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Franchise Tax  
5 Board (FTB) for the fiscal year ending June 30, 1999. The circumstances are as follows:

6 39. In or about 1999, Respondent was employed by PLC to prepare its Income  
7 Tax Return with the FTB but he failed to do so, to the detriment of PLC.

8 SIXTEENTH CAUSE FOR DISCIPLINE

9 (BREACH OF FIDUCIARY DUTY)

10 40. Respondent is subject to disciplinary action under section 5100(h) in that  
11 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with FTB for the fiscal  
12 year ending June 30, 1999. The circumstances are as follows:

13 41. In or about 1999, Respondent was employed by PLC to prepare its Income  
14 Tax Return with the FTB, but he failed to do so, to the detriment of PLC.

15 SEVENTEENTH CAUSE FOR DISCIPLINE

16 (GROSS NEGLIGENCE)

17 42. Respondent is subject to disciplinary action under section 5100(c) in that  
18 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
19 Revenue Service (IRS) for the fiscal year ending June 30, 2000. The circumstances are as  
20 follows:

21 43. In or about 2000, Respondent was employed by PLC to prepare its Income  
22 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

23 EIGHTEENTH CAUSE FOR DISCIPLINE

24 (BREACH OF FIDUCIARY DUTY)

25 44. Respondent is subject to disciplinary action under section 5100(h) in that  
26 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
27 Revenue Service (IRS) for the fiscal year ending June 30, 2000. The circumstances are as  
28 follows:

1                   45.     In or about 2000, Respondent was employed by PLC to prepare its Income  
2 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

3                                 NINETEENTH CAUSE FOR DISCIPLINE

4   (GROSS NEGLIGENCE)

5                   46.     Respondent is subject to disciplinary action under section 5100(c) in that  
6 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Franchise Tax  
7 Board (FTB) for the fiscal year ending June 30, 2000. The circumstances are as follows:

8                   47.     In or about 2000, Respondent was employed by PLC to prepare its Income  
9 Tax Return with the FTB but he failed to do so, to the detriment of PLC.

10                                 TWENTIETH CAUSE FOR DISCIPLINE

11   (BREACH OF FIDUCIARY DUTY)

12                   48.     Respondent is subject to disciplinary action under section 5100(h) in that  
13 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with FTB for the fiscal  
14 year ending June 30, 2000. The circumstances are as follows:

15                   49.     In or about 2000, Respondent was employed by PLC to prepare its Income  
16 Tax Return with the FTB, but he failed to do so, to the detriment of PLC.

17                                 TWENTY-FIRST CAUSE FOR DISCIPLINE

18   (GROSS NEGLIGENCE)

19                   50.     Respondent is subject to disciplinary action under section 5100(c) in that  
20 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal  
21 Revenue Service (IRS) for the fiscal year ending June 30, 2001. The circumstances are as  
22 follows:

23                   51.     In or about 2001, Respondent was employed by PLC to prepare its Income  
24 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

25                                 TWENTY-SECOND CAUSE FOR DISCIPLINE

26   (BREACH OF FIDUCIARY DUTY)

27                   52.     Respondent is subject to disciplinary action under section 5100(h) in that  
28 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Internal

1 Revenue Service (IRS) for the fiscal year ending June 30, 2001. The circumstances are as  
2 follows:

3 53. In or about 2001, Respondent was employed by PLC to prepare its Income  
4 Tax Return with the IRS, but he failed to do so, to the detriment of PLC.

5 TWENTY-THIRD CAUSE FOR DISCIPLINE

6 (GROSS NEGLIGENCE)

7 54. Respondent is subject to disciplinary action under section 5100(c) in that  
8 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Franchise Tax  
9 Board (FTB) for the fiscal year ending June 30, 2001. The circumstances are as follows:

10 55. In or about 2001, Respondent was employed by PLC to prepare its Income  
11 Tax Return with the FTB, but he failed to do so, to the detriment of PLC.

12 TWENTY-FOURTH CAUSE FOR DISCIPLINE

13 (BREACH OF FIDUCIARY DUTY)

14 56. Respondent is subject to disciplinary action under section 5100(h) in that  
15 he failed to prepare Income Tax Returns for his client, PLC, Inc. (PLC), with the Franchise Tax  
16 Board (FTB) for the fiscal year ending June 30, 2001. The circumstances are as follows:

17 57. In or about 2001, Respondent was employed by PLC to prepare its Income  
18 Tax Return with the FTB, but he failed to do so, to the detriment of PLC.

19 TWENTY-FIFTH CAUSE FOR DISCIPLINE

20 (FAILURE TO FURNISH RECORDS)

21 58. Respondent is subject to disciplinary action under section 5037 in that he  
22 failed to furnish his client copies of its records pursuant to its request. The circumstances are as  
23 follows:

24 59. In or about July 2000 through July 2001, Respondent failed to comply  
25 with the request of PLC, his client, to provide copies of records pertaining to its taxes for the  
26 years of 1996, 1997, 1998, 1999, 2000, and 2001.

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28 ///

1 TWENTY-SIXTH CAUSE FOR DISCIPLINE

2 (PRACTICING WITHOUT A VALID PERMIT)

3 60. Respondent is subject to disciplinary action under section 5050 in that  
4 after his license expired on May 1, 2001, he continued to engage in the practice of public  
5 accounting within the meaning of section 5051. The circumstances are as follows:

6 61. On or about May 1, 2001 through April 18, 2002, Respondent offered  
7 services as a CPA in the Pacific Bell Yellow Pages and by maintaining an office for the  
8 transaction of business as a CPA.

9 PRAYER

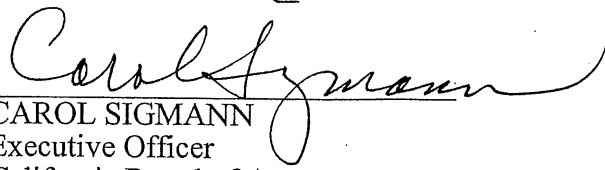
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
11 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

12 1. Revoking, suspending or otherwise imposing discipline upon Certified  
13 Public Accountant, Certificate Number CPA 15715, issued to RICHARD A. CERESA;

14 2. Ordering RICHARD A. CERESA to pay the California Board of  
15 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to  
16 Business and Professions Code section 5107;

17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: November 19, 2002

19  
20   
21 CAROL SIGMANN  
22 Executive Officer  
23 California Board of Accountancy  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant  
27  
28